REMARKS

Reconsideration of the first Office action issued in connection with the above-identified patent application is requested in view of the following remarks. Claims 1-36 are presently pending in the application. In the first Office action, claims 1-25 were allowed, claims 32 and 35 were indicated to contain allowable subject matter, and claims 26-31, 33, 34, and 36 were rejected as being anticipated by U.S. Patent No. 6,508,322 to Dignitti et al. Applicant is pleased to see that claims 1-25, 32 and 35 were either allowed or indicated to contain allowable subject matter. Regarding the rejected claims, Applicant has studied the reasons expressed in the Office action and the cited reference in view of the rejected claims, and Applicant respectfully traverses and requests reconsideration of the rejections for at least the reasons presented below.

Rejections under 35 U.S.C. § 102(b)

Claim 26 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,508,322 to Dignitti et al. Claim 26 is reproduced below for the Examiner's convenience:

> 26. A children's ride-on vehicle having at least a first battery-powered component, the vehicle comprising:
>
> a body having at least one seat for a child and a battery compartment adapted to receive a battery assembly, wherein the battery compartment includes an aperture sized to permit a battery assembly to be selectively inserted into and removed from the battery compartment;
>
> a battery-powered motor assembly;
>
> at least one user input device adapted to actuate the battery-powered motor assembly;
>
> a plurality of wheels rotatably coupled to the body;
>
> a battery assembly adapted to provide power to the battery-powered motor assembly; and
>
> a battery retainer assembly adapted to selectively retain the battery assembly within the battery compartment, the battery retainer assembly comprising a retaining member coupled for pivotal movement relative to the battery assembly, wherein the retaining member is adapted to be pivoted between a closed position, in which the retaining member obstructs removal of the battery assembly from the battery compartment through the aperture, and an open position, in which the retaining

member does not obstruct removal of the battery assembly from the battery compartment through the aperture and in which the retaining member is adapted to displace the battery assembly at least partially through the aperture.

Claim 26 is directed to a children's ride-on vehicle that includes, amongst other structure, a battery retainer assembly that is adapted to retain a battery assembly within a battery compartment having an aperture. The retainer assembly includes a retaining member that is coupled for pivotal movement relative to the battery assembly, with claim 26 reciting that the retaining member is adapted to be pivoted between a closed position, in which the retaining member obstructs removal of the battery assembly from the battery compartment through the aperture, and an open position, in which the retaining member does not obstruct removal of the battery assembly from the battery compartment through the aperture. Claim 26 further recites that in the open position the retaining member is adapted to displace the battery assembly at least partially through the aperture. Illustrative, nonexclusive, examples of battery retainer assemblies having this structure are shown in Figs. 9 and 10 of the present application and are reproduced below.

Fig. 9

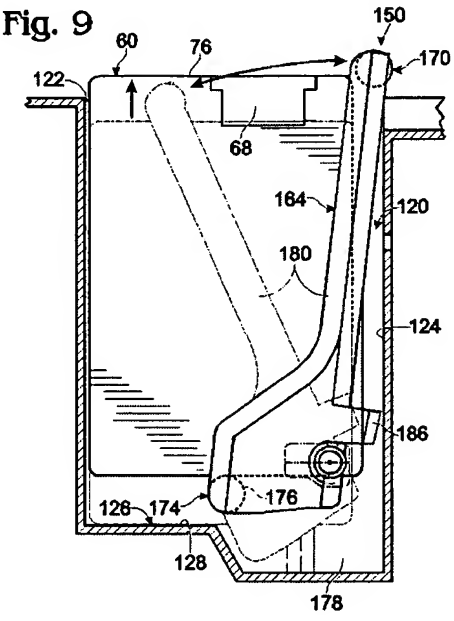
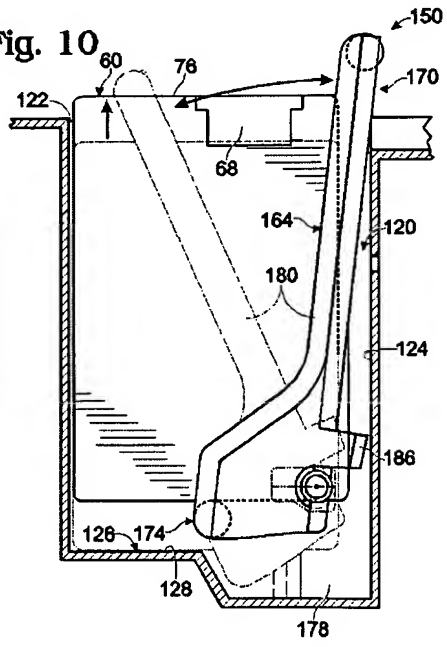


Fig. 10



As shown in the above Figures, the illustrated retaining members 164 pivot relative to the battery assembly 60 within a range of positions, such as the illustrative closed positions shown in dashed lines and the illustrative open positions shown in solid lines. As demonstrated in the above figures, in the open position, the retaining member displaces the battery assembly at least partially through the battery compartment's aperture 122. This displacement of the battery assembly is also illustrated in these Figures by upwardly pointing arrows.

Similar to the present disclosure, Dignitti et al. also discloses battery retainer assemblies for children's ride-on vehicles. However, and in contrast to the subject matter recited in claim 26, the battery retainer assemblies of Dignitti are not adapted to be selectively positioned between a position in which the battery assembly is retained in a battery compartment, and another position in which the battery assembly is at least partially displaced out of the battery compartment by the retainer assembly. Instead, Dignitti et al. discloses battery retainer assemblies that include a retaining member that is biased to extend in a position where it obstructs removal of the battery assembly from a ride-on vehicle's battery compartment. To remove the battery assembly from the battery compartment of a ride-on that includes the retainer assembly of Dignitti et al., a user must urge the retaining member against its bias to a position in which the retaining member no longer obstructs removal of the battery assembly. This is demonstrated in Figs. 2 and 3 of Dignitti et al., which are reproduced below for the Examiner's convenience.

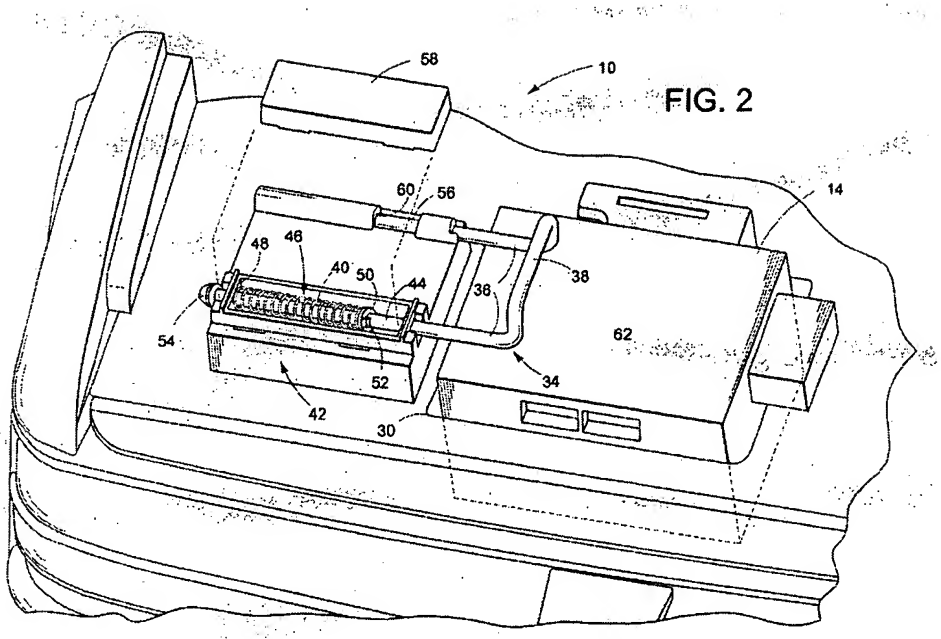


FIG. 2

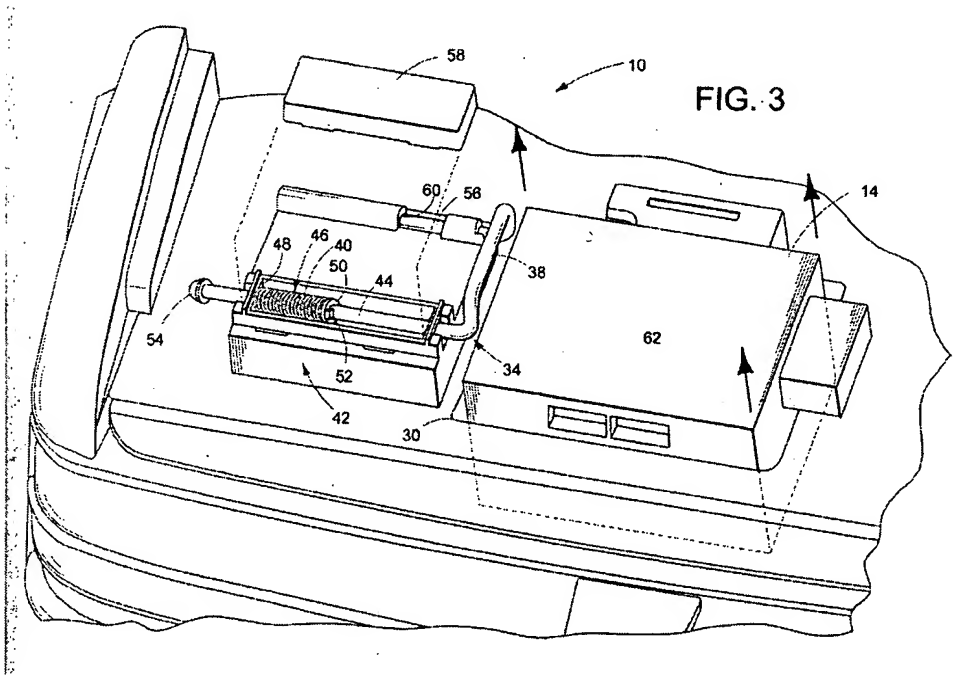


FIG. 3

In Fig. 2, retaining member 34 obstructs removal of the battery, and in Fig. 3, the retaining member has been slid against the bias provided by spring 40 to a position in which the battery assembly may be removed from the battery compartment. As can be seen by comparing Figs. 2 and 3 of Dignitti et al., as well as the disclosure of Dignitti et al., the battery assembly is

not displaced relative to the battery compartment when the retaining member is moved between its obstructing and non-obstructing positions. Furthermore, Dignitti et al. fails to disclose or suggest any suitable structure for urging the battery assembly at least partially out of the battery compartment. Therefore, Applicant submits that Dignitti et al. fails to disclose or suggest the battery retainer assembly recited in claim 26.

In the Office action, element 92 of Dignitti et al. was cited as being a pivotal retaining member that is coupled for pivotal movement between the open and closed positions recited in claim 26 and which is adapted to displace the battery assembly at least partially through the battery compartment's aperture. Applicant respectfully submits that element 92 does not disclose or provide this structure. Instead, element 92 of Dignitti et al. is a cover for the ride-on's battery compartment, with Dignitti et al. disclosing that its battery retainer assembly may also be used to retain the cover in a closed position. In such an embodiment, such as disclosed in Figs. 11 and 12 of Dignitti et al., which are reproduced below for the Examiner's convenience, the retainer assembly frees cover 92 to be pivoted away from or otherwise removed from the battery compartment when the retaining member is urged against its bias so that it no longer obstructs removal of the battery assembly from the battery compartment. Cover 92 is coupled to the body of the vehicle and pivots relative to the body of the vehicle, without regard to the position of the battery.

FIG. 11

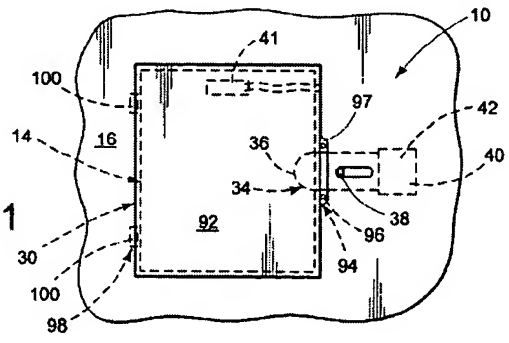
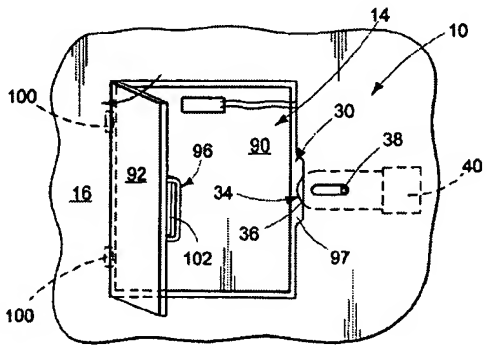


FIG. 12



However, regardless of whether or not the ride-on of Dignitti et al. includes a cover for its battery compartment, the retainer assembly still does not disclose or suggest any structure for selectively displacing the battery assembly at least partially out of the battery compartment responsive to the retaining member being moved to a position in which it does not obstruct removal of the battery assembly, much less the pivotal biasing member recited in claim 26.

For at least the above reasons, Applicant submits that Dignitti et al. fails to disclose the structure recited in claim 26, and therefore Applicant requests that the rejection of claim 26 be withdrawn.

Claims 27-31, 33, 34, and 36 depend directly or indirectly from claim 26 and therefore should be allowed when claim 26 is allowed. For the purpose of brevity, Applicant is not presenting a discussion of each of these dependent claims or presenting each additional reason why these dependent claims patentably distinguish the cited references. However, Applicant wants to briefly mention a few of these dependent claims to present at least one additional reason why the claims should be allowed.

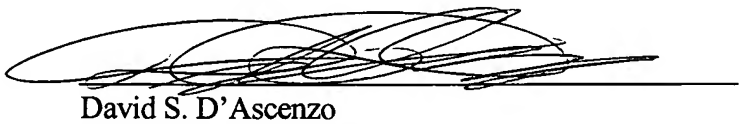
Claim 31 depends from claim 26 and recites that the retaining member defines a frame that extends around at least the proximal surface, the distal surface, and at least one side of the battery assembly. Claim 31 stands rejected as being anticipated by Dignitti et al. However, as illustrated above, the retaining member and/or cover portion 92 of Dignitti et al. at most extend across only a proximal surface of the battery assembly. There is no disclosure or suggestion in Dignitti et al. to include a retaining member that extends around even one surface of the battery assembly other than the proximal surface, much less extending around the proximal surface, a distal surface and at least one side surface of the battery assembly. Applicant submits that claim 31 should be allowed for at least this additional reason.

Claim 36 depends from claim 26 and recites that the retaining member is biased to pivot to the open position. As previously noted, Dignitti et al. discloses that the retaining member is biased to its closed position, not an open position. Therefore, Dignitti et al. discloses a battery retainer assembly that is biased to the opposite position as the retainer assembly recited in claim 36. Accordingly, it follows that Dignitti et al. cannot anticipate claim 36. Applicant therefore submits that claim 36 should be allowed for at least this additional reason.

For the reasons discussed herein, Applicant submits that all of the issues raised in the first Office action have been addressed and overcome. If there are any remaining issues or if the Examiner has any questions, Applicant's undersigned attorney may be reached at the number listed below. Similarly, if the Examiner believes that a telephone interview may be productive in advancing prosecution of the present application, the Examiner is invited to contact Applicant's undersigned attorney at the number listed below.

Respectfully submitted,

KOLISCH HARTWELL, P.C.



David S. D'Ascenzo
Registration No. 39,952
PTO Customer No. 23581
Kolisch Hartwell, P.C.
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679